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August 27, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Report of Ex Parte Communication
RM-9260**

Dear Ms. Salas:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this is to report that on behalf of the **Community Broadcasters Association** ("CBA"), I made an oral *ex parte* presentation on **August 26, 1998**, with respect to the above-referenced proceeding to Keith Larson, Assistant Chief for Engineering of the **Mass Media Bureau**.

Mr. Larson and I discussed various issues relating to CBA's petition for rule making and how certain proposed rules would be interpreted. I made it clear that CBA does not propose that Class A television stations be permitted to cause interference with full power digital TV stations within service areas that replicate their authorized NTSC service areas, even if the stations commence digital operation at lower power. With respect to the proposal to exempt Class A stations from Section 73.622 of the Rules, I indicated that the intent was that Class A stations be permitted to operate digitally without being limited to channels listed in the digital table of allotments. Certain sub-sections of Section 73.622, concerning computation of distances and other matters other than the actual allotment table and changes thereto, might be applicable in dealing with Class A stations. The references to "principal city" contour were not intended to create a new standard different from the established "city grade" contour in the existing rules.

I also indicated that CBA would concur with clarifications to certain parts of proposed Section 73.627 of the Rules:

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(b)(ii): The broadcast of not less than 3 hours in each calendar week of programming produced within the city grade service contour (as defined in section 73.683(a) for NTSC service and section 73.625(a)(1) for digital service) of the station, or produced within the city grade service contour of any of a group of commonly controlled stations operating in contiguous or closely grouped areas that carry common local or specialized programming not otherwise available to their communities.

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(c)(ii): A certification that from and after the date of the application, the station is operating and will continue to operate in compliance with all requirements of subparts E and H of part 73, except for sections 73.606(b), 73.607, 73.609, 73.610, 73.614, 73.622 (except subsections (e) and (h)), 73.623 (except subsection (c)), and 73.3555, which sections shall not apply to Class A television stations, and compliance with subsection (d) of this section.

(c)(iv): A showing that the Class A station will not cause interference within the authorized Grade B analog contour or the protected digital service area of any television station on a channel specified in sections 73.606(b) or 73.622(b) as of the date of filing of the Class A application, or within the protected service contour of any low power television or television translator station authorized by construction permit or license prior to the date of filing of the Class A application.

(d) An application for a Class A television may not propose a change in channel or an extension of the station's protected service contour as defined in section 74.707(a) of this part, or the equivalent digital service area. However, separate applications for Class A status and for facilities changes will not be considered inconsistent and may be pursued at the same time. Applications proposing no change in channel or increase in coverage area will not be subject to mutually exclusive applications.

(e) A Class A television station licensee may apply for a construction permit to modify its facilities to operate with any combination of effective radiated power and antenna height that will not cause interference within the Grade B service contour or protected digital service area of any television station that is operating on a channel specified in sections 73.606(b) or 73.622(b) as of the date of filing of the Class A application, or within the protected service contour of any low power television or television translator station authorized by construction permit or license prior to the date of filing of the Class A application, under the interference standards applicable to full power television stations under this part. Class A stations shall be limited to the following

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(g) A Class A television station shall be protected from interference within its NTSC protected service contour as specified in section 74.707(a)(1) of this part, or an equivalent coverage area if operating digitally, except from stations (including low power television and television translator stations) with facilities that were authorized on or prior to the date of filing of the Class A application and stations authorized in conformance with section 73.622(f). If a station authorized on or prior to the date of the filing of a Class A application will receive interference from the Class A television station, the Class A television licensee may apply for a change of channel. Such applications may be filed at any time and will be processed on a first-come, first-served basis, not subject to mutually exclusive applications. An application for a change of channel filed by a Class A television station to avoid interference that would be caused to or received from a full power digital television station based on the Class A station's authorized facilities shall be given priority over an application for a change of channel by a low power television or television translator station.

(h) Class A status will be granted only to stations authorized to operate on Channels 2-59.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter Tannenwald', with a stylized flourish at the end.

Peter Tannenwald
Counsel for the Community
Broadcasters Association

cc: Mr. Keith Larson